

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2022 ND 55

State of North Dakota,

Plaintiff and Appellee

v.

Mason Jordan Schuh,

Defendant and Appellant

No. 20210257

Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable Bonnie L. Storbakken, Judge.

AFFIRMED.

Per Curiam.

David L. Rappenecker (argued), Assistant State's Attorney, and Julie A. Lawyer (on brief), State's Attorney, Bismarck, ND, for plaintiff and appellee.

Benjamin C. Pulkrabek, Mandan, ND, for defendant and appellant.

State v. Schuh
No. 20210257

Per Curiam.

[¶1] Mason Jordan Schuh appeals from a criminal judgment entered after a jury found him guilty of attempted murder. On appeal, Schuh argues the district court erred in instructing the jury, and abused its discretion in admitting an audio recording made while Schuh was incarcerated.

[¶2] Schuh argues the district court erred in failing to include the words “even though that belief is mistaken” in the jury instruction regarding the reasonableness of Schuh’s claimed self-defense. The district court used the language requested by Schuh at trial in the jury instruction, which did not include the phrase on the defendant’s mistaken belief. “It is a cardinal rule of appellate review that a party may not challenge as error a ruling or other trial proceeding invited by that party.” *State v. Rende*, 2018 ND 56, ¶ 9, 907 N.W.2d 361. We conclude Schuh invited any error in the jury instructions.

[¶3] Schuh also contends the district court abused its discretion in admitting an audio recording of rap lyrics created by Schuh while he was incarcerated awaiting trial. He argues the prejudicial effect of the rap lyrics substantially outweighed their probative value under N.D.R.Ev. 403. We conclude the district court did not abuse its discretion in admitting the audio recording. The criminal judgment is summarily affirmed under N.D.R.App.P. 35.1(a)(4) and (7).

[¶4] Jon J. Jensen, C.J.
Gerald W. VandeWalle
Daniel J. Crothers
Lisa Fair McEvers
Jerod E. Tufte